



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
HAUNI RICHMOND INC.
FOR
HAUNI FACILITY
EPA ID No. VAD043622711**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Hauni Richmond Inc., regarding the Hauni Facility, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CAV" means compliance assistance visit.
3. "CEI" means compliance evaluation inspection.
4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Facility" or "Site" means the Hauni Facility located at 2800 Charles City Road, in Richmond, Virginia.
8. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
9. "Hauni" means Hauni Richmond Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Hauni is a "person" within the meaning of Va. Code § 10.1-1400.
10. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
11. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
12. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
14. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
15. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
16. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
17. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).

18. "UW" means universal waste.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.
21. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. Hauni owns and operates the Facility in Richmond, Virginia. Hauni is a manufacturer of cigarette-making machinery. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. Hauni submitted a RCRA Subtitle C Site Identification Form May 21, 1985, that gave notice of regulated waste activity at the Facility as an SQG of hazardous waste. Hauni was issued EPA ID No. VAD043622711 for the Facility. In a subsequent form January 1, 2015, Hauni gave notice as an LQG of hazardous waste and on April 4, 2015 returned to SQG status. Hauni is also a Small Quantity Handler of Universal Waste at the Facility.
3. At the Facility, Hauni generates several solid waste streams both hazardous and non-hazardous as a result of operations. Generated hazardous wastes include paint related wastes (D001, D005, D006, D007, D008, D018, D039, D040, F003, F005), spent aerosols (D001, D003), spent part-washer solvent (D039), spent solvent wipes (D039) and corrosive wastes (D002). This hazardous waste is accumulated in containers at the Facility after its generation.
4. On July 15, 2016, DEQ conducted a Compliance Evaluation Inspection (CEI) at the Facility. The CEI was conducted to follow up a Compliance Assistance Visit (CAV) conducted on March 13, 2016, and to evaluate Facility compliance with applicable Virginia Hazardous Waste Management Regulations. During the inspection, DEQ staff noted that Hauni was operating as a SQG of hazardous waste.
 - a. During the inspection, DEQ staff observed a paint shop containing a paint spray prep booth and a paint spray booth. This shop was not observed during the CAV. It was noted that there are filters lining both the paint spray prep booth and the paint spray booth. When they become dirty, Hauni staff disposes of these filters in the Facility trash. Also, the Facility generates waste blast media that is managed as non-hazardous waste. However, a hazardous waste determination has not been made on these waste streams.

40 CFR §262.11 requires persons who generate a solid waste as defined by 40 CFR §261.2 must determine if that waste is a hazardous waste.

- b. Based upon the review of documents provided, Hauni became a LQG in January 2015 when 3,750 pounds of hazardous waste (hazardous waste codes D005, D007, D008) was generated when waste water from the wash system at the Facility needed replacement. Hauni never notified DEQ that its generator status had changed from SQG to LQG.

9VAC 20-60-315.D requires anyone who becomes or ceases to become a LQG shall notify the Department immediately in writing.

- c. DEQ does not have record of receiving a biennial report or payment from Hauni of the annual hazardous waste generator fee for calendar year 2015.

9VAC 20-60-1283.B requires LQGs to pay an annual fee.

40 CFR §262.41 requires generators, who transport hazardous waste off-site to a treatment, storage or disposal facility, to prepare and submit a biennial report.

- d. DEQ personnel observed that the name and telephone number of the emergency coordinator were not posted next to Facility telephones. This was also noted during the CAV.

40 CFR §262.34(d)(5)(ii) requires the name and phone number of the emergency coordinator to be posted next to the phone.

- e. DEQ staff observed two containers of hazardous waste in the less than 180 day accumulation area in the machine shop. DEQ staff observed that these containers did not have accumulation start dates.

40 CFR §262.34(a)(2) requires that each container have a clear mark indicating the date that accumulation begins.

- f. DEQ staff observed two containers of hazardous waste in the less than 180 day accumulation area in the machine shop and one container of hazardous waste in the satellite accumulation area at the paint shop. DEQ staff observed that the lids for these containers were resting loosely on top of the containers and were not fastened.

40 CFR §265.173(a) requires that containers holding hazardous waste must always be closed except when adding or removing waste becomes necessary.

- g. The container holding solvent-contaminated rags in the satellite accumulation area in the paint shop was not labeled with the words "Hazardous Waste."

40 CFR §262.34(a)(3) requires that while being accumulated on-site, each container is labeled or marked clearly with the words "Hazardous Waste."

- h. DEQ staff observed one less-than-180 day accumulation area for hazardous waste. Weekly inspections of the less-than-180 day hazardous waste accumulation area were not taking place.

40CFR §265.174 requires weekly inspections of containers for leaks and corrosion.

- i. Hauni was unable to provide documentation that the police, fire departments, and emergency response teams have been familiarized with the layout of the Facility and associated hazards. Hauni had not designated one police and fire department with primary emergency authority. Additionally, Hauni had not familiarized local hospitals with the properties of the waste handled at the facility and the types of injuries or illness that could result.

40CFR §265.37 requires operators and owners of hazardous waste handling facilities to familiarize police, fire, and emergency responders with the facility layout, properties of the waste at the facility, places where persons will be located working, building entrances and exits and evacuation routes. Also required is familiarizing hospitals with the properties of the hazardous waste handled and the type of injuries that could result from fires explosions or releases. When more than one police and/or fire department might respond, one must be chosen as primary responder.

- j. The Facility had several UW accumulation areas in the machine shop (UW lamps and UW batteries) and in the other shop area (UW lamps and UW batteries). At the time of the inspection the UW battery container in the machine shop was not labeled or dated. The UW batteries in the other shop area were also not labeled or dated.

40CFR §273.14 states a small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste.

40CFR §273.15 requires small quantity handlers of universal waste to be able to demonstrate the length of time the UW has accumulated.

- 5. On September 16, 2016, based on the inspection and follow-up information, the Department issued NOV No. 2016-09-PRO-601 to Hauni citing them for the violations observed.

6. On October 4, 2016, the Department met with representatives of Hauni to discuss the NOV and the compliance issues at their facility. Hauni stated they would be finished completing the required compliance items in approximately one month. On November 15, 2016, Department staff verified completion and the return to full compliance with the regulations.
7. Based on the results of the July 15, 2016, inspection, the October 4, 2016 meeting, and the documentation submitted by Hauni in October 2016, the Board concludes that Hauni has violated 40 CFR §262.11, 9VAC 20-60-315.D, 9VAC 20-60-1283, 40 CFR §262.41, 40 CFR §262.34(d)(5)(ii), 40 CFR §262.34(a)(2), 40 CFR §265.173(a), 40 CFR §262.34(a)(3), 40CFR §265.174, 40CFR §265.37, 40CFR §273.14, and 40CFR §273.15, as described in paragraphs above.
8. ~~Hauni has submitted documentation that verifies that the violations described above have been corrected.~~

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Hauni, and Hauni agrees to pay a civil charge of \$22,140 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Hauni shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Hauni shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Hauni for good cause shown by Hauni, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Hauni admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein
4. Hauni consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Hauni declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Hauni to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Hauni shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Hauni shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hauni shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Hauni intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Hauni.
- 11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Hauni has completed all of the requirements of the Order;
 - b. Hauni petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Hauni.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hauni from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Hauni and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Hauni certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Hauni to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Hauni.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no

representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Hauni voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29 day of January, 2018.



Jefferson D. Reynolds
Enforcement Division Director
Department of Environmental Quality

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Hauni Richmond Inc. voluntarily agrees to the issuance of this Order.

Date: 12/15/17 By: [Signature] Christopher Traugh, Director Manufacturing
(Person) (Title)
Hauni Richmond Inc.

Commonwealth of Virginia

City/County of Richmond Henrico

The foregoing document was signed and acknowledged before me this 15 day of
December, 2017, by Christopher Traugh who is Director of
Manufacturing of Hauni Richmond Inc., on behalf of the corporation.

[Signature]
Notary Public

312082
Registration No.

My commission expires: 11/30/2021

Notary seal:

